

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed February 27, 2004. At the time of the Office Action, Claims 7-22 were pending in this Application. Claims 1-6 were previously canceled by Applicants. Claims 7-22 stand rejected. New Claims 23-28 have been added to further define various features of Applicants' invention. No new matter is presented by these amendments. Applicants respectfully request reconsideration and favorable action in this case.

Priority

This Application claims priority to 08/087615, filed July 12, 1993, through PCT/US94/07581, filed July 1, 1994. In accordance with 37 C.F.R. 1.55, Applicants intend to submit certified copies of the foreign priority application upon receipt of favorable action in the present application and prior to payment of any issue fees.

Rejections under 35 U.S.C. §102

Claims 7 and 10-15 stand rejected by the Examiner under 35 U.S.C. §102(e) as being anticipated by U.S. Patent 5,629,186 issued to Robert D. Yasukawa et al. ("Yasukawa").

Applicants respectfully submit that Yasukawa may not be used as a reference for a §102(e) rejection of the present Application under the law set forth in §102(e). Under §102, a person shall be entitled to a patent unless – (e) the invention was described in – (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent. Yasukawa was filed on April 28, 1994 and does not claim priority to an earlier application. The present application, as indicated in the Declaration, claims priority to U.S. Patent Application Serial No. 08/087,615 filed on July 12, 1993. Since Yasukawa is a patent granted on an application filed after the priority date of the present Application, Yasukawa is not available as a reference through the criteria set forth in §102(e). Therefore, Yasukawa may not be used as a reference under §102(e) against the present Application.

Rejections under 35 U.S.C. §103

Claims 7-9, 16-20, and 22 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 5,681,572 issued to William J. Seare, Jr. ("Seare") in view of Yasukawa.

Applicants further note that since Yasukawa does not qualify as a reference under §102, Yasukawa may not be used as a reference for a §103(a) rejection of the present Application. Under the law set forth in §103(a), the reference must be disclose or described as set for in §102. Since Yasukawa was not filed as of the priority date of the present Application, Yasukawa does not qualify as a reference under §102. Therefore, Yasukawa may not be used as a reference under §103(a) against the present Application.

CONCLUSION

Applicants have now made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. Applicants respectfully request reconsideration of Claims 7-28.

Applicants believe there are no fees due at this time, however, the Commissioner is hereby authorized to charge any additional fees or credit any overpayment to Deposit Account No. 02-0383 of Baker Botts L.L.P.

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PATENT APPLICATION
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If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2606.

Respectfully submitted,

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